NOTIFICATION.

Bangalore, dated 29 h Septem`er 1967.

S. O. 1921.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds Act, 1952 (Central Act 19 of 1952) read with Notification No. PF-1/32/(5) (57-II) dated the 20th June 1958; issued by the Central Government, the Government of Mysore hereby exempts M/s. Best and Company Private Limited, Bangalore (hereafter called the Establishment) from the provisions of the Employees' Provident Funds Schemes, 1952, subject to the following conditions, namely :—

1. The employer of the establishment (hereinafter referred to as the 'Employer') shall within three months of the date of publication of this Notification, amend the constitution of the Provident Fund maintained in respect of the employees of the establishment as indicated in conditions 2 to 21 of this Notification.

2. The Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument of Trust which adequately safeguards the interests of the employees.

3. The constitution of the Board of Trustees of the Provident Fund of the establishment and the election of employees' representatives on the Board shall be in accordance with the rules contained in the schedule to this notification.

4. The Provident Fund Rules of the establishment shall not be amended except with the previous approval of the Regional Commissioner, and where any amendment affects the interests of the employees' the Regional Commissioner, shall before giving his approval, give a reasonable opportunity to the representatives of the employees to explain their point of view.

5 (1) The employer shall before paying the member his wages in respect of any period or part of a period for which contributions are payable, deduct the employees'

contributions from his wages which together with his own contribution shall, within fifteen days of the close of every month, be paid to the Board.

(2) The Board shall make all investment of accumulations in securities of the Central Government subject to such conditions as the Central Government may, from time to time, give within two weeks of the payment of the Provident Fund contributions by the employers. The reinvestment or conversion of securities on maturity shall also be in the securities of Central Government. The employer of the establishment shall formulate a procedure for prompt investment of Provident Fund moneys and shall get it approved from the Regional Commissioner.

6. All expenses involved in the administration of the Provident Fund schemes including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer of the establishment.

7. The employer shall display on the notice board of his establishment in English and in Kannada, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of the workers.

8. The employer shall within three months of the date of publication of this notification, transfer to the Board of Trustees the accumulations standing to the credit of the employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or the exemption of the establishment is cancelled, accumulations standing to the credit of employees who but for the exemption, would have been members of the statutory Fund shall be transferred to that Fund as soon as possible and in any case, not later than thirty days in the case of securities and not later than ten days in the case of cash in hand or in a bank, together with a statement or statements as may be required by the Regional Commissioner.

10. The employer shall accept the past provident Fund accumulations of an employee who is already a member of the Employees' Provident Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the Establishment's Provident Fund his accumulations which shall be transferred within three months, of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his Provident Fund Rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee, that is 12.5 paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 paise shall be ignored. The amount of inspection charges and damages shall be calculated to the nearest 5 paise.

13. On all repayable loans granted by the Establishment, interest shall be charged at the rate of $4\frac{1}{2}$ per cent or 1 per cent above the rate allowed on the balance to the credit of the members, whichever is higher.

14. The employer shall pay to the Regional Commissioner inspection charges payable, failing which damages shall be paid at rates fixed by the State Government from time to time.

15. (i) The employer whenever there is a raise in the rate of statutory provident fund contribution shall revise the Provident Fund Scheme of the Establishment suitably so that the benefits under the said schemes are at no time less favourable than the benefits available under the Employees' Provident Fund Scheme.

(ii) The employer shall maintain accounts of provident fund in such manner and submit such returns to the Regional Commissioner as may be prescribed by the Central Commissioner from time to time.

(iii) The employer shall furnish to the Regional Commissioner such accounts of provident fund of the establishment as may be prescribed by the Central Commissioner from time to time He shall also furnish annual statement of accounts or a pass book in such form as may be prescribed by the Central Commissioner from time to time to the subscriber who but for the exemption would have been a member of the Provident Fund of the establishment.

16. The employer shall submit an audited copy of the balance sheet of the provident fund every year to the Regional Commissioner as soon as the balance sheet is prepared.

17. The employer shall transfer the monthly contributions to the Board of Trustees within fifteen days of the close of the month, failing which he shall pay interest to the above Board at the following rates :—

Period of default :

1st Default	2% of arrears	5% of arrears	10% of arrears	15% of arrears	20% of arrears	25% of arrears
2nd default	5% of arrears	10% of arrears	15% of arrears	20% of arrears	25 % of arrears	
3rd default	10% of arrears	15% of arrears	20% of arrears	25% of arrears		
4th default	15% of arrears	20% of arrears	25% of arrears			
5th default	20% of arrears	25% of arrears				
6th default	25% of arrears					

18. Notwithstanding anything in the provident fund rules of the establishment, the amount payable to any member upon his ceasing to be an employee of the establishment by way of employers' and employees' constributions *plus* interest thereon taken together with the amount,

f any, payable under the Gratuity Pension Rules, be less than the amount that would be payable as employers' and employees' contributions *plus* interest thereon, if he were a member of the Provident Fund under the Employees' rovident Fund scheme, the employer shall pay the difference to the member as compensation or/special contribution.

19. All matters not herein provided for shall be regulated by the approved Provident Fund Rules of the Establishment.

20. The exemption granted by this notification shall be liable to be withdrawn by the State Government for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

21. (1) The employer shall in relation to the establishment carry out such instructions as the State Government may from time to time, issue for the purpose of enforcing all or any of the aforesaid conditions.

(2) The State Government reserves the right to impose such further conditions as may be deemed necessary in the interests of the employees of the establishment.

SCHEDULE.

Rules regarding the election of Employees' Representatives on the Board of Trustees of Provident Fund of an establishment exempted under Section 17 (1) (b) of the Employees' Provident Funds Act, 1952.

(*See* Conditioon 3)

(i) **Constitution** :—The employer shall constitute a Board of Trustees (hereinafter referred to as the Board) in the manner hereinafter provided.

(ii) **Number of members** :—(a) The Board of Trustees shall consist of an equal number of representatives of the employers and the employees. The number of trustees on

the Board shall be so fixed as to afford as for as possible, representation to workers in various branches/departments of the establishment:

Provided that the number of trustees on the Board shall neither be less than six nor more than twelve.

(b) In case there is a common Provident Fund for a group of two or more establishments under the employer, one Board may be constituted for all such establishments and in such a case the employees of each such establishment shall be entitled to elect a trustee on the Board.

(iii) **Employees' Representatives**:—The employer shall nominate his representatives from amongst the officers employed in managerial or administrative capacity in the establishment.

(iv) **Election of employees' representatives**—The representatives of the employees shall be elected by the members of the Fund in an election to be held for the purpose on any working day:

Provided that wherever there is a recognised union under the Code of Discipline or under any law, such union shall nominate the employees' representatives;

Provided further that wherever there is no recognised Union, the representative union, if any, existing under any law regulating the recognition of workers' Union, shall nominate the employees' representatives;

Provided also that wherever there is neither a recognised Union nor a representative Union of workers, any Union existing in the establishment and qualified for recognition by the employer, shall nominate the employees' representatives and where there is more than one such Union, the procedure laid down in the Industrial Disputes (Mysore) Rules, for the election of the workers; representatives on the workers Committee shall be followed with such modification, if any, as may be considered necessary by the Regional Provident Fund Commissioner.

(v) **Qualifications of Candidates for election** :—(a) Any member of the Fund who is not less than twenty one years of age may, if nominated as hereinafter provided, be a candidate for election as an employees' representative.

(b) An outgoing trustee shall be eligble for re-election or re-nomination, as the case may be.

(vi) **Procedure for election** : The employer shall fix a date for receiving nominations from candidates for election as employees' representatives. He shall also fix a date for the withdrawal of nomination and the date of election which shall not be earlier than three days or later than ten days after the last date for withdrawal of nominations. The dates so fixed shall be notified to the members at least seven days in advance. The notice shall be affixed on the notice Board of the Establishment. The notice shall also specify the number of seats to be filled by the employees representatives. A copy of such notice shall also be sent to the recognised trade Union or the Unions concerned in the establishment and to the Regional Provident Fund Commissioner.

(vii) **Nomination of candidate for election** :— Every nomination shall be made in the form annexed to these rules. Each nomination papers shall be signed by the candidate to whom it relates and attested by atleast two members of the Fund other than the proposer and shall be delivered to the employer on or before the closing date fixed for receiving the nominations.

(viii) **Scrutiny of Nomination Papers** :—The employer shall scrutinize the nomination papers received under rule (vii) on the date following the last date fixed for withdrawing the nomination papers. The candidates or his nominee, the proposer or the attesting members may be present, if they so desire. Invalid nomination papers shall be rejected.

(ix) **Voting** :—(a) If the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall forthwith be declared duly elected.

(b) If the number of candidates is more than the number of seats, voting shall take place on the date fixed for election.

(c) The election shall be conducted by the employer in the presence of an officer, deputed by the Regional Provident Fund Commissioner, if there is a request from the employees or employer.

(d) Every member of the Fund shall have as many votes as there are seats to be filled on the Board:

Provided that each such member shall be entitled to cast only one vote in favour of any candidate.

(e) The voting shall be by Secret ballot.

(x) **Disqualifications of a trustee:**—A person shall be disqulified for being a trustee of the Board;—

(i) if he is declared to be of unsound mind by a competent Court; or

(ii) if he is an undischarged insolvent; or

(iii) if he has been convicted of an offence involving moral turpitude

(xi) **Chairman of the Board:**—The employer shall nominate one of his representatives on the Board to be the Chairman thereof.

(xii) **Method of deciding questions:**—All questions before the Board shall be decided by a majority of votes. In the event of an equality of votes, the Chairman shall exercise a casting vote.

(xiii) **Filling of casual vacancies:**—In the event of a trustee, elected or nominated, ceasing to be a trustee during the tenure of the Board, his successor shall be elected or nominated, as the case may be in the manner herein before provided for election or nomination, and shall hold office for the remainder of the term of the trustee who has ceased to be a trustee.

(xiv) **Reference to Regional Provident Fund Commissioner:**—In case of any dispute or doubt, the matter be referred to the Regional Provident Fund Commissioner in whose region the Head Office of the Establishment is situated. His decision in the matter shall be final and binding.

ANNEXURE.

FORM OF NOMINATION PAPER.

(See Rule vii)

Name of the Branch/Department

I hereby nominate Shri

(Name of the Employees' candidate with his Provident Fund Account No.)

as a candidate for election to the Board of Trustees.

DATED:

(Signature of the proposer with his Provident Fund Account No.)

ADDRESS:

I hereby declare that I agree to this nomination.

Dated: Signature of Candidate.

Address.

Attested by (i) (ii)

TO BE SIGNED BY TWO MEMBERS OF THE PROVIDENT FUND

CERTIFICATE OF DELIVERY:—

This nomination paper was delivered to me at my office on..... by the candidate/proposer.....

EMPLOYER.

[No. FCL 235 LPF 67.]

By Order and in the name of the Governor of Mysore,

1196 G. G. PUROHIT, *Under Secretary.*